



An
Bord
Pleanála

Inspector's Report ABP-311970-21

Development	Retention: Protected Structure: retention for demolition of return and construction to replace same. Associated site development works.
Location	49, Cabra Road, Dublin 7
Planning Authority	Dublin City Council (DCC)
Planning Authority Reg. Ref.	2115/21
Applicant(s)	Michael Dever
Type of Application	Planning Permission for Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Michael Dever
Observer(s)	None
Date of Site Inspection	11 th May 2022
Inspector	Jimmy Green

1.0 Site Location and Description

- 1.1. Subject site is located at 49 Cabra Road, which is a two storey over garden level terraced residential building on the north side of the street. The building presents a three-storey elevation to the Cabra Road, with steps up from ground level to the main residential access door at first floor level. The elevation of the upper floors are finished externally in brick with the ground level being rendered. The site frontage presents a highly traditional appearance to the street and no. 49 is a Protected Structure (RPS No. 1077) as are its neighbouring dwellings in the terrace. Access to the rear of the site is afforded via a wide cul-de-sac service road (St. Losif), that is accessed off Dowth Avenue. The site size is stated as being 310m².
- 1.2. This terraced building has an M-profile slate roof and the original two-storey rear return (now removed the retention of which is subject to the current appeal) had an apex roof which was paired with the rear return of the neighbouring property (which is still in place). The entirety of the previous two-storey rear return has been removed and replaced with a modern two storey structure with a flat roof. There is a long garden to the rear of the site which culminates in a flat-roofed single storey shed/garage which is accessed off the rear service road. Rear garden boundaries consist of low stone walls.

2.0 Subject Development

- 2.1. The works subject to the current appeal are described as follows in the public notices:

“Works for which retention permission is sought include demolition of pre-existing 2-storey return and construction of new 2-storey return, all to rear of original building along with all associated landscaping and site works.”

Due to the inclusion of the term “include” in the development description it is not explicit in terms of the nature and scope of the application. From review of the application documentation, however, the current appeal relates to the following –

- Retention of the demolition of a traditionally proportioned two-storey, apex-roofed rear return of a protected structure, and

- Retention of the construction of a modern two-storey flat-roofed rear return onto a protected structure.

The modern return that has been provided increases the footprint of the building on site, the now demolished rear return had a floor area of approximately 21m² over two floors while the modern return to be retained has a stated floor area of approximately 41m² over two floors. The original return occupied a built footprint of approximately 2.7m wide by 6.6m long, while the new return is approximately 4m wide and 6.5m long.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated 21st October 2021 the Planning Authority refused permission for the proposed development for the following reason:

“The retention of the demolition of the original return of this protected structure does not provide conservation gain by way of the protection or restoration of the historic plan form, features and fabric which contribute to its special interest. The extension to be retained does not incorporate high standards of craftsmanship, nor does it relate sensitively to the scale, proportions, design, period and architectural detail of the original building, and the proposed additional amendments to same do not ameliorate the injury done to the protected structure. The proposal is not highly sensitive to the historic fabric and special interest of the interior, including its plan form and architectural detail, and the design, form, scale, proportions and siting of the new extension causes serious injury to the protected structure and the immediately adjoining protected structure. Therefore, the proposal would contravene Policy CHC2 (a), (b), (c) and (d) of the Dublin City Council Development Plan 2016 – 2022 and would seriously injure the amenities of the area.”

3.2. Planning Authority Further Information Request

- 3.2.1. Prior to the decision a request for further information (FI) issued from the Planning Authority. The FI Request (issued in March 2021), sought the following details:

- Clarification as to the proposed use of the building as bedsits considering national and local policy, whether the use had ceased a number of years ago, and whether there was access to the large garden area shown in the submitted plans for the units.
- Clarification as to the intended use of the constructed two-storey return as the internal layouts provided appear to accommodate the provision of two bedsit units far below the standards set out in the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) (“the Apartment Guidelines”).
- The provision of more comprehensive detail in relation to the nature of the works carried out and their suitability in the context of the protected structure.
- The Applicant was requested to respond to the issues raised by the City Conservation officer (CO) (discussed further below).

The applicant’s response provided additional architectural conservation reporting and it was clarified that the rear return could be altered to accommodate a one-bed apartment to satisfy the requirements of the Apartment Guidelines (by proposing further extension and the addition of a roof terrace as private open space. The applicant also clarified that access is available to the rear garden from the common stairwell of the main structure through an existing door that was not shown on the originally submitted drawings. The FI response was not re-advertised as significant, and the Planning Authority moved to issue their decision to refuse.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Dublin City Council (DCC) planner prepared two reports in relation to the subject development the first, requesting further information – (FI), was dated 24th March 2021, with the second report prepared in support of the decision that issued (dated 21st October 2021). The first report recommending FI noted the following general issues:

- The modern rear return for which retention is sought may be considered reasonable in scale and marginally larger than that being replaced but there is uncertainty over the intended use.
- There are 8 residential (bedsit) units referenced as being within the protected structure in the application documentation and the planner's report notes that regardless of the status of the existing units in the main building DCC would have serious concerns in relation to the provision of additional substandard bedsit styled units in the new rear return.
- The planning report noted the significant concerns and recommended refusal reasons set out in the Conservation Officer's report (discussed further below).

3.3.2. In considering the applicants responses to the FI request the DCC Planner's report prepared in support of their decision notes the following:

- The applicant had not provided sufficient evidence of compliance with planning policy showing the subdivision of the building into 8 units prior to 1963. In this regard the planners report refers to the content of an advertisement from 1970 putting the property for auction that states that the property was a single dwelling unit at that time.
- In response to the FI item requiring further clarification as to the details of the proposed use of the new rear return the applicant submitted revised plans which sought to reconfigure, further extend and amend the rear return to provide a one-bedroom apartment with a gross floor area of 45m² and an entrance level (first floor) terrace/private open space area with screening to restrict overlooking. The planners report found this proposal to be substandard and inappropriate in terms of residential amenities and overall impact.
- The DCC planning report considered that the pre-existing rear return was part of the original structure despite the content of the updated conservation report that was submitted.
- The additional details provided in terms of materials and proposed cladding were found to be inappropriate and not sufficient in terms of providing conservation gain as required under the development plan provisions.

3.3.3. Other Technical Reports

- Report from Planning Authority Drainage division – no objection subject to conditions.
- Two reports are included from the City Conservation Officer the first dated 23rd March 2021 prior to the FI request and the second dated 13th October, both recommending refusal. The primary issues raised within these reports can be summarised as follows:
 - The works are contrary to the provisions of Policy CHC2 of the Dublin City Council Development Plan.
 - The unauthorised demolition of the original pitched-roofed rear return of a protected structure and its replacement with a flat roofed wider extension is unacceptable from a conservation viewpoint as it does not respect the form and massing of the original and accordingly compromises the legibility of the protected structure as well as that of its neighbour no. 51 (which is also a protected structure).
 - The photographs submitted in response to the FI request are acknowledged, however, the conservation officer remains concerned that the application documentation does not adequately demonstrate that the works did not impact adversely on historic fabric in particular the round headed stairwell window and cill on rear elevation of the main building.
 - The subject development does not improve the amenity, accommodation nor enhance the architectural character of the Protected Structure. The Conservation Officer considers that the optimum development proposal for this site to be the provision of a single dwelling unit per floor within the protected structure as this would represent a more sympathetic response to the legibility and historic floorplan of the building.
 - Conservation officer notes that two storey extensions to the rear of Protected Structures could be acceptable in principle but their design

must be of the highest quality and must not be overly dominant and be respectful of the architectural character and fabric.

3.4. Prescribed Bodies

Submission from Transport Infrastructure Ireland noting that the site falls within an area set out in a Section 49 levy scheme for light rail and requests that an appropriate levy be imposed in the event of favourable consideration.

3.5. Third Party Observations

There were no third-party observations submitted in relation to the subject development.

4.0 Planning History

There is no previous planning history on the site of the subject development. The planners report does reference E0800/20 – Unauthorised Extension, which refers to a warning letter issued from DCC in relation to the works.

There have been no previous planning applications on the subject site, however, pre-planning discussions were held with the Planning Authority, via email exchanges in March-April 2020.

Previous relevant applications in the vicinity include:

PI. Ref. 2322/09 – 39 Cabra Road, application for retention of two no. extensions and permission for alterations to a protected structure, including internal alterations of 5 no. bed sits into 3 no. apartments and ancillary works. Permission granted by the Planning Authority.

PI. Ref. 4503/08 - 43 Cabra Road, application for permission for demolition of existing 3 storey return at rear of house and the construction of a new 3 storey return at rear containing ancillary accommodation at lower ground floor level, a kitchen at upper ground floor level and a bedroom, bathroom at first floor level of a protected structure. Permission granted by the Planning Authority.

5.0 Policy Context

5.1. National Policy

5.1.1. Architectural Heritage

‘Architectural Heritage Protection: Guidelines for Planning Authorities’ (Department of Arts Heritage and the Gaeltacht 2011) (“the Architectural Heritage Guidelines”) provides guidance to planning authorities in assessing applications involving Protected Structures. Section 6.8.8 states that the best way to prolong the life of a protected structure is to keep it in active use, ideally in its original use. Other relevant aspects of these guidelines are discussed as relevant in Section 7.6 of this report below.

5.1.2. National Inventory of Architectural Heritage (NIAH)

The NIAH identify, records, and evaluates the post-1700 architectural heritage of Ireland, as an aid in the protection and conservation of the built heritage. NIAH surveys provide the basis for the recommendations to planning authorities for the inclusion of particular structures in their Record of Protected Structures (RPS). The relevant descriptions of the NIAH in relation to the subject site are discussed in Section 7.6 of this report.

5.1.3. National Planning Framework

5.1.3.1. The National Planning Framework (NPF) is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings.

5.1.4. Sustainable Urban Housing Design Standards for New Apartments

5.1.4.1. The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) (Apartment Guidelines) set out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking. The main provisions of note in relation to the subject development are as follows:

- SPPR 2 states that for all building refurbishment schemes on sites of any size where up to 9 residential units are proposed there shall be no restriction on dwelling mix, provided no more than 50% of the development comprises studio type units. SPPR 2 also notes that there is scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.
- The minimum floor area for a studio apartment is stated as 37m² (SPPR 3 refers) with a 30m² aggregate floor area requirement for combined living/dining/bedspace area. Studio's also have a 3m² storage space, 4m² private and 4m² communal open space requirement.
- The minimum floor area for a one bed apartment is 45m² with a minimum bedroom floor area of 11.4m² and an aggregate living/dining/kitchen area requirement of 23m², private open space of 5m², storage space of 3m² and a communal amenity space of 4m².

5.2. Development Plan

- 5.2.1. The applicable development plan is the Dublin City Development Plan 2016-2022 (CDP) under which the site is zoned as Z2 – “Residential Neighbourhoods (Conservation Areas)” the objective of which is “To protect and/or improve the amenities of residential conservation areas”. Residential is a use that is permissible in this zoning.
- 5.2.2. No. 49 Cabra Road is also included in the Record of Protected Structures (RPS) under the provisions of the CDP along with the majority of dwellings in this terrace. It has the RPS reference no. 1077, with the description of “House”. In this regard the provisions of policy CHC2, are applicable, this states that it is policy:

“To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest.*

- (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances.*
- (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.*
- (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works.*
- (f) Have regard to ecological considerations for example, protection of species such as bats.*

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.”

- 5.2.3. Under the provisions of the Draft Dublin City Development Plan 2022-2028 (which has been placed on public display and it is intended that the members will consider the Chief Executives Report on submissions to the Draft at special meeting in July) the site remains zoned as Z2 and retains its Protected Structure Status.

5.3. Natural Heritage Designations/Appropriate Assessment

- 5.3.1. The most proximate Natural Heritage designation to the subject site is the Royal Canal (pNHA) site code 002103, which is located approximately 500m to the northeast, the most proximate Natura 2000 site is the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) which is located approximately 3.4km to the west of the site.
- 5.3.2. Having regard to the nature and scale of the subject works which essentially constitutes retention of demolition of an existing extension and a replacement extension structure within a well-established, built-up, fully serviced urban area, and

having regard to the location of the development c. 3.4km from the nearest European site, I conclude that no Appropriate Assessment issues arise as the subject works would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

5.4. EIA Screening

- 5.4.1. Schedule 5 of the Planning and Development Regulations 2001 (as amended) (“the Regulations”) sets out the various classes and thresholds of development which require mandatory Environmental Impact Assessment (EIA). The original application sought retention of demolition of the pre-existing return and retention of a new return which effectively constituted the extension of the existing building on site. In this regard, the retention of an extension of a residential building is not of a class specified and in Schedule 5 of the Regulations and accordingly EIA requirement does not arise.
- 5.4.2. In the interests of completeness, following the FI response the application was amended to provide for an additional dwelling unit. The provision of dwelling units is of a class specified in Schedule 5 Part 2 of the Regulations (Class 10(b) “Infrastructure projects” refers), which establishes the relevant EIA threshold in relation to this class of development as “*Construction of more than 500 dwelling units*”. Having regard to the nature and scale of the development, within a serviced urban area removed from any sensitive locations or features, I conclude that there is no likelihood of significant effects on the environment arising from the proposed development.
- 5.4.3. Accordingly, I conclude that the necessity for submission of an Environmental Impact Assessment Report and carrying out of EIA can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party grounds of appeal has been submitted, which can be summarised as follows:

- DCC has established a precedent for granting permission for replacement and extension of returns along the same terrace as the subject development.
- A “precedent” decision from An Bord Pleanála (ABP-308189) in relation to a protected structure is also cited. – In this regard I note that that consent related to internal alterations to a protected structure.
- The overall impact of the subject works when the FI is considered is that there is a net reduction from eight to seven dwelling units on site.
- There will be no further loss of historic fabric.
- The current economic climate does not at present support the return of use of the structure to a single dwelling unit, although this may change in the future.
- The demolition of the previous return is acknowledged as being a mistake as the applicant was ill-advised, the demolition has now occurred and cannot be undone. The removed portion of the structure had no features of merit.
- The proposed replacement dwelling (in the return as set out in the FI response) satisfies the requirements of the Apartment Guidelines and therefore cannot be considered sub-standard.
- The provision of studio/bedsit units such as currently in place represent an important piece of the housing stock in Dublin and fulfil a clear and urgent accommodation requirement.
- A conservation gain is presented by holding onto the remaining parts of the protected structure for future restoration.
- The structure for which retention is sought is not visible from the public realm, is located in a highly accessible serviced location and any future works which may be required arising from favourable consideration of this matter will be carried out in compliance with the Architectural Heritage and Apartment Guidelines.

6.2. Planning Authority Response

No response was received from DCC.

7.0 Assessment

7.1. Having inspected the subject site, application details and documentation as well as considering the national and local planning policy context and guidance, I consider the main issues in this appeal are as follows:

- The nature of the application
- The principle of the development
- Residential Amenity
- Architectural Heritage

7.2. The Nature of the Application

7.2.1. In my opinion there is a question as to the nature of the application documentation given the inaccuracies in the original application drawings and the significant changes which have been incorporated/proposed within the FI response. The public notices submitted state that the application is seeking retention permission to include the demolition of the pre-existing 2-storey return and construction of a new 2-storey return, then at the FI stage the nature of the application was altered to seek permission for an apartment unit and further extensions to the extant rear return.

7.2.2. The original application documentation submitted included a schedule of areas setting out the current status of the structure on site which listed two residential units on each floor of the protected structure (Units 1 & 2 at garden level, Units 3 & 4 at entrance level, and Units 5, & 6 at first floor level). Details on file confirm that currently the largest unit within the building (Unit 1) has a floorspace of 27m², while the smallest (Unit 3) has a floorspace of 17m². The minimum standards for a one-person studio (37m²) as set out in the Apartment Guidelines.

7.2.3. The original application documentation also described the floorspace within the rear-return for which retention was sought as “Common Areas – Extension subject of Retention Application”, at both the garden and entrance levels. Notwithstanding this, on review of the application drawings and site inspection it appears that the originally intended use of the new rear return was to cater for two no. bedsit/studio units. The response to the FI request concerning the use of these floor areas stated that the rear return would be used as a one bedroomed apartment and provided additional

details of further extensions and alterations (including additional stairs, private upper floor terrace and further extension) which would satisfy the Apartment Guideline floorspace requirements.

7.2.4. Furthermore, I note that works have been undertaken which alter the internal arrangements of the main building, from drawings these works include (but may not be limited to) amalgamation of unit 5 and 6 on the first floor into a single unit, amendments to Unit no. 1 including closing (non-original) own-door access under the main access steps on the front elevation, and opening of a new internal doorway into the basement hall through a wall marked as “existing” on FI drawing K1526-S1-101 and as “historic” on FI drawing K1526-S1-111, as well as the removal of a rear door access to the garden from unit 2 and its replacement with a window.

7.2.5. I note that from inspection the common areas which have been upgraded (reception and circulation areas) within the main building have respected all items of architectural interest (i.e., stairway and reception features have been retained) and the works are of a high quality. These works appear to have been carried out over the last two years (since initial pre-planning engagement) but are not provided for within the current application.

7.2.6. In view of the above I have the following concerns with the current application/appeal:

- At FI stage the applicant substantially changed the nature of the proposed development. An additional dwelling unit is now proposed as part of the development, with additional works which require planning permission. The provision of an additional dwelling unit, the additional floor space extension to the rear, or the provision of an upper-level terrace were not set out in public notices or detailed on the originally submitted plans. Furthermore, the planning authority did not require re-advertisement of the FI response as being significant as it moved to refuse permission. Accordingly, the nature of the planning application which now requires significant elements of permission as well as retention has never been properly brought before the public.
- The amendments set out in the FI response would make the rear return for which retention is sought larger and incorporate a upper-level terrace to

provide private open space which would, in my opinion, be inappropriate in terms of (a) having an adverse impact on residential amenity arising from overlooking, (b) have an adverse impact on the character of the area due to the nature of any design interventions which would be required to mitigate overlooking, and (c) create an inappropriate precedent.

- Within the first party appeal documentation it is acknowledged that elements of the FI response were ill-advised and alternative means of mitigating adverse impacts are described such as changing the method of screening to avoid overlooking from the terrace, omission of the rear terrace, as well as stating that it is possible to meet all standards of the apartment guidelines with proper design. Further statements are made in relation to the possibility of installing period style slip brick to render the new rear return to blend it more effectively within the built environment.

The alterations set out in the FI response in my view are significant changes from the originally proposed development, and the retention nature of the application cannot provide for the extent of additional works proposed both in response to FI and again at appeal stage in terms of the subject physical works and nature of the floorspace.

7.2.7. It should also be noted that there remains a level of inaccuracy in the application drawings. The absence of the door offering access to the rear garden on Section B-B highlighted in the FI response has been addressed, however, Section B-B as submitted in response to the FI continues to have inaccuracies including – faux door/window under front concrete stairs not accurately depicted, and fenestration facing no. 47 (on the side elevation of the rear return) are not accurately presented not all windows and cills on the new return are the same height/level (as shown on drawings) – refer to site photograph's.

7.3. Accordingly, having regard to the protected status of the subject building (and its neighbouring buildings) I do not consider that an appropriate level of detail, accuracy, or clarity has been provided in relation to the nature of the development and the future proposed works. I acknowledge that these have been described in writing, however, due to the protected nature of the structure on site and its neighbours at a minimum it would be necessary to provide comprehensive plans and details of all intended works, including samples/photographs of external finishes to

ensure their appropriate nature in advance of being able to arrive at a decision in the current case.

7.3.1. In conclusion on this issue, on the basis of information submitted I consider that sufficient detail has not been provided to facilitate a decision being made on the suitability or otherwise of the subject development as amended at FI stage and as proposed to be further amended in the first party appeal. In my opinion, following the decision that issued from the Planning Authority, having regard to the nature of the alterations proposed the optimum approach to take would have been to prepare a new application to the planning authority clearly stating the elements for which retention is required while also including (within the notices and fee's etc.) the elements for which permission is being sought. Any future application should be supported by fully detailed, accurate and consistent architectural drawings, conservation reporting including relevant and detailed site photographs, describing the nature of the works carried out, what their status is considered to be (i.e. when the works were carried out and whether they are considered to affect/impact on the character of the protected structure), the nature of the items of interest from the protected structure and insofar as practicable any photographic records (internal and external) of the rear return which was demolished.

7.3.2. In this regard, arising from the very specific wording of the public notices, which were not subject to re-advertisement following the FI response, it is my opinion that this appeal can only be considered on the basis of the retention of demolition of pre-existing 2-storey return and construction of new 2-storey return. Notwithstanding this, however, should the Board wish to consider the provision of the elements for which further permission would be necessary (such as additional floorspace extension proposed in response to the FI request etc.) even though these have not been specified in the notices and represent a significant departure from the application as originally lodged to the planning authority I have also considered their merits in the assessment below.

7.4. The Principle of the Development

7.4.1. The site of the subject works is zoned as Z2 - "Residential Neighbourhoods (Conservation Areas)" the objective of which is "To protect and/or improve the

amenities of residential conservation areas”. The subject development related to residential use and accordingly is permissible at this location.

- 7.4.2. As set out in the original application documentation the rear return for which retention is sought was described as “Common Areas – Extension, subject of Retention Application” over the two levels of the rear return (schedule of areas provided by Brennan Furlong Architects refers). From review of the drawings and following site inspection it appears that this description is inaccurate as both levels within the rear return seem to be laid out to accommodate a further studio/bedsit in each.
- 7.4.3. The residential use of this site is well established, albeit that there has been some argument in relation to the timing and intensity of this use. In this regard I note that the extant plans all show multi-unit occupancy of the building, and the applicant’s agents’ have stated that this has been the case since the appointed day (i.e., prior to 1963). I also acknowledge that the planners report includes details of an advertisement for a public auction of 49 Cabra Road in 1970 which states that the dwelling was in single occupancy. In response to this issue the first party appeal includes a declaration from the neighbouring property owner which states that the subject property was in use as a multi-unit dwelling in or about 1960, and I further note that while a warning letter has issued to the applicant in relation to the rear return extension works it does not appear that any such enforcement action has been taken in relation to the use of the main building. On balance therefore I consider that the use of the building for multi-unit occupation has been established.
- 7.4.4. The original application drawings showed a total of 8 no. bedsit/studio units within no. 49 as follows:
- Two bedsit/studio units at garden level within the main building.
 - One bedsit/studio unit within the now demolished rear return (this was arranged over both levels in the former rear return with access via the communal stairs, this arrangement seems unwieldly but is consistent from submitted drawings and in pre-planning correspondence descriptions – email correspondence from agent to DDC dated 9th March 2020 refers).
 - Two bedsit/studio units at entrance level within the main body of the building.

- Three bedsit/studio units at first floor level within the main body of the building.

All the extant unit sizes are significantly below the minimum standards for a one-person studio (37m²) as set out in the Apartment Guidelines.

7.4.5. It is noted that the Apartment Guidelines allow for the relaxation of standards in refurbishment properties particularly where design would merit this. The subject works however are within a modern rear return and whether it could be considered true refurbishment is questionable. Furthermore, as the works constitute the provision new floorspace (as the pre-existing rear return was demolished) I do not consider it appropriate for the rear-return to be utilised or consented as two further substandard bedsit/studio units. In this regard, I note that while the application documentation notes that 8 units were accommodated on site prior to any works only one of these units was within the pre-existing rear return (with the other seven being in the main building) accordingly, the provision of more than one unit within the new rear return would in my opinion represent an inappropriate intensification having regard to the substandard nature of the extant units in the main building. There is I believe (subject to the application limitations set out in in 7.2 above) merit in pursuing the provision of a one-bedroom apartment within this floorspace provided sufficient and high-quality design detail in terms of features and finishes (including access to communal open space in the rear garden) can be assured. In this context, I believe that it should be possible to provide a sufficiently high-quality design which would provide an appropriate balance between ensuring the preservation of the amenity, important features and character of the protected structure and justification of a reduction in certain apartment standards.

7.4.6. In light of the above consideration and having regard to the application documentation I am of the opinion that the principle of the retention of a new rear return (in terms of the provision of additional residential floorspace to ensure the ongoing continued use of the structure) and the retention of the demolition of the pre-existing return, would be acceptable at this location provided adequate detail is provided in terms of (a) justification of the removal of the pre-existing return (i.e. that it did not give rise to the loss of significant historic fabric), (b) detailed high quality design is incorporated throughout and within the new return, (c) extant heritage and architectural features of merit in the building are retained/respected along with the

character of the neighbouring protected structures, (d) amenity provisions for future residents are improved, (e) adjoining residential amenities are protected and (f) the integrity of the adjoining rear return on neighbouring property is assured. The application and appeal documentation as submitted do not, in my opinion, provide sufficient details in relation to items (a) to (f) above, further discussion of these matters are set out below.

7.5. Residential Amenity

- 7.5.1. The subject development removed a pre-existing rear return which had traditional and matching features with the main building on site (and the twinned return of the neighbouring protected structure no. 51 to the west) and replaced it with a contemporary and modern structure.
- 7.5.2. The pre-existing rear return projected from the main building and had a pitched roof shared with no. 51, and upper-level (i.e., entrance level) windows orientated towards no. 47, the neighbouring protected structure to the east.
- 7.5.3. The new return structure is larger in footprint than the original and has a flat roof instead of the original pitched roof. The new structure has a similar length as the original, albeit it is noted that the modern return does present a stronger appearance on site arising from its flat roof profile and modern appearance. The main change in the built footprint is in the width with the new return being 4m wide while the original was only approximately 2.8m wide. This has led to the windows on the side elevation facing no. 47 moving closer to the parity boundary. The principle of windows at this level facing towards the neighbouring unit has been established as there were upper-level windows in the previous return, however, with the modern floorspace and increased ceiling heights the upper floor windows have increased on the relevant elevation. In relation to overlooking I consider that the principle of windows overlooking the rear garden of no. 47 has been established, however, additional design considerations should have been incorporated to further protect adjoining residential amenities through screening and/or window design interventions.
- 7.5.4. There are no issues of overlooking arising in relation to no. 51 as there are no windows orientated towards that side. Should the Board be considering granting permission for the development as set out in the FI response that the terrace level open space to the rear of the return would result in a significant adverse impact on

residential amenity on neighbouring properties. There is no precedent in the vicinity on any of the adjacent protected structures for such a terrace level and rear boundaries in the vicinity are generally low. It is my opinion that the provision of the rear terrace as proposed in the FI response is inappropriate in terms of having an adverse impact on residential amenity of neighbouring property and that it would be an inappropriate design at this location.

7.5.5. The return for which retention is sought lies to the rear of no. 49 which in turn lies to the North of the Cabra Road, furthermore although it is wider it follows the general format and orientation of the pre-existing return, and existing neighbouring properties have significant rear garden areas. In my opinion, therefore it is unlikely to give rise to significant additional overshadowing or loss of light on neighbouring properties, although I note no sunlight or daylight analysis has been submitted.

7.5.6. On the basis of the above, in relation to residential amenity, I consider that the subject works as provided do not give rise to significant adverse impacts on neighbouring properties. The current situation could be improved in the event of provision of accurate drawings of the side-facing windows in the new rear return and additional design intervention to restrict overlooking. The provision of the further extension and rear terrace as set out in the FI response would, however, in my opinion have a detrimental impact on the residential amenity of neighbours and the character of the area.

7.6. Architectural Heritage

7.6.1. The National Inventory of Architectural Heritage (NIAH) describes 49 Cabra Road as follows:

“Terraced two-bay two-storey house over raised basement, built c.1850, with return to rear (north) elevation. M-profile pitched roof hidden behind brick parapet wall with granite coping. Cement rendered chimneystacks to party walls. Brown brick laid in Flemish bond to ground and first floors with granite plinth course over-ruled and lined rendered wall to basement. Square-headed window openings with brick voussoirs and reveals, granite sills and replacement casement windows. Elliptical-headed door opening with brick voussoirs, rendered reveals and replacement early twentieth-century timber and stained-glass door flanked by stained-glass margin lights supporting

leaded fanlight. Granite platform with cast-iron bootscape and cast-iron coal hole cover. Granite steps with wrought-iron handrail. Wrought-iron railings on rendered plinth wall with granite coping with matching wrought-iron pedestrian gate to front.”

- 7.6.2. The NIAH also notes that the structure is part of a terraced group (no.'s 51, 49, 47, 45, and 43) which were likely constructed by the same developer, and that the terrace maintains a coherent form although no. 49 is notable by is ornate early 20th century entrance door with matching side-lights.
- 7.6.3. I note the concerns of the DCC conservation officer (CO) as articulated in the conservation reports which consider that the preference for development at this location should be to have the entirety of the structure kept in use but accommodate a reduced number of units and the stated preference in this regard is for a single apartment to be provided at each floor. It should also be noted that the CO considers that the pre-existing rear-return was original to the building notwithstanding uncertainty in the conservation report on file.
- 7.6.4. The first party appeal acknowledges that the removal of the pre-existing return was “unfortunate”, but arguments are presented which highlight that there is uncertainty as to whether the pre-existing rear return formed part of the original structure/dwelling on site or if it was a later addition. The conservation report found that the pre-existing return (as surveyed in 2018) was in poor structural repair, had significant damp penetration, as well as having a different quality of brick to the main building and used different materials and detailing (the return incorporating stretcher bond as opposed to flemish bond in the main building). The conservation report also notes that *“In 2018, when bought and surveyed, the internal areas of the return held little historic fabric...”* although the report does not give any detail as to what “little” historic fabric was in place and has not identified whether there were any specific features of merit within the return structure. This is a shortcoming in the application documentation, particularly when the conservation officer has reached the conclusion as set out in their report that the rear return was an original part of the structure.
- 7.6.5. The Architectural Heritage Guidelines note that in extensions to protected structures *“...the work should involve the smallest possible loss of historic fabric and ensure*

that important features are not obscured, damaged or destroyed. In general, principal elevations of a protected structure (not necessarily just the façade) should not be adversely affected by new extensions.” (Section 6.8.2 of the Architectural Heritage Guidelines refers).

- 7.6.6. It is noted that the structure of the pre-existing rear return held some value in terms of its built fabric, structure and scale, albeit specific features are not listed or noted. The pre-existing return was in poor condition and needed remediation, however, there is no detail provided as to whether there were any alternatives available to demolition. Should it be shown that the structure of the rear return was the only element of historic fabric and that due to its poor condition it was not of merit, the principle of replacing it with a modern, contemporary return with a high-quality design providing residential accommodation of a sufficient standard for future residents as well as improving the residential amenities of current residents would be considered an appropriate intervention, however, on the basis of the application documentation submitted I cannot make such a determination.
- 7.6.7. The primary elevation of the protected structure is its front elevation which provides a strong, coherent and pleasant vista onto Cabra Road. The alterations that have been carried out to the main structure do not alter the character of this elevation and I consider that the new fenestration installed is a truer reflection of the original windows than were previously in place prior to the works. The works to the rear return do not impact in any way on this primary elevation nor is the character affected.
- 7.6.8. The rear of the building also has its own character, although this is more hidden and not as uniform within the overall terrace, nor are clear views of the rear elevation available from the public realm. Access to the rear of the Protected Structure (as well as its neighbouring protected structures along this terrace) is via a narrow mews lane, and views of the rear elevations are restricted to views of the upper floors of the protected structures from this laneway. All views towards the newly constructed rear return are limited by existing single storey shed/storage or commercial structures/sheds/garages that front onto this mews lane.
- 7.6.9. Full views of the rear elevation of the protected structure and the new rear return can be achieved from the rear gardens of the subject site. Views to the rear of

neighbouring properties are also available and there are a wide variety of rear returns in terms of their format, character, scale and nature of materials used. External stairs are also in evidence along the rear elevations of the rest of the terrace as are single-, two-, and three-storey rear returns with a variety of finishes that have been carried out at various dates in the past. Notwithstanding this variety in form the subject development does represent the largest and most modern rear return in place along the rear of the terrace.

7.6.10. Having considered the application documentation and following site inspection, I am of the opinion that the rear return although visually dominant in its current form could be rendered more suitable to its built environment by implementing cladding of the nature proposed in the first party appeal which would allow the building to read as being more sympathetic to its environment. It would, however, in my opinion be necessary to have comprehensive details of the proposed finishes on file to fully inform any such decision, particularly to assess the potential impacts on the subject protected structure as well as the neighbouring protected structures. While the first party appeal suggests that cladding and other interventions can be made, more detail, drawings and samples/photographs showing the appropriate nature of the proposed works have not been provided.

7.6.11. In terms of scale, the subject rear return has the appearance of being the largest (as it currently stands) along this terrace of protected structures. In my opinion the legibility of the rear return could be improved by providing more sympathetic external finishes, however, any further or additional extension to the return structure (such as that suggested in the FI response) would need to be designed in a highly sympathetic manner to break up the visual bulk of the modern return further, through use of different “lighter” materials, finishes or roof form. Such an approach could be considered in keeping with the provisions of Section 6.8.3 of the Architectural Heritage Guidelines which state *“Generally, attempts should not be made to disguise new additions or extensions and make them appear to belong to the historic fabric. The architectural style of additions does not necessarily need to imitate historical styles or replicate the detailing of the original building in order to be considered acceptable. However, this should not be seen as a licence for unsympathetic or inappropriate work. Careful consideration of the palette of materials with which the works are to be executed can mediate between a modern design idiom and the*

historic fabric of the structure. Extensions should complement the original structure in terms of scale, materials and detailed design while reflecting the values of the present time.”

7.6.12. Considering the above and on review of the documentation submitted, the provision of the combination of additional floorspace with the same external finishes/appearance as the rest of the rear return and a roof terrace such as that proposed in the FI response is not, in my opinion appropriate, and would be difficult to assimilate into the built environment at this location. It is therefore my opinion the further extension of the extant rear return as proposed in the FI response is neither appropriate nor acceptable.

7.6.13. The conservation officers report did raise some specific issues in relation to the interaction between the new rear return structure and the main building. These are considered further below:

- The CO report notes that the walls of the new rear return line up immediately against the openings of the protected structure, in this regard the planners report also notes that the rear extension abuts so closely with the openings in the rear elevation that this area could not be clad in brick as indicated in the FI reply. The first party appeal maintains that it is possible to provide a period style slip brick on the exterior of the return and not significantly impinge on the surviving protected structure. In relation to this issue, I note that there is a step-back on the eastern elevation wall of the rear return which avoids impact on the rear fenestration of the main building, and site inspection confirms that the cill on the window of unit 4 (rear elevation of main house at entrance level) has neither been cut or interfered with. Furthermore, while some form of cladding would be appropriate on the remainder of the return structure, it may not be necessary to include brick cladding on this set back wall, and another external finish may be acceptable as it would clearly delineate the new extension area.
- The CO report also notes concerns that the legibility of the round headed window of the staircase may have been compromised by the subject development. In my opinion and as informed by site inspection the legibility of this feature has not been affected to the extent that the character has been

infringed. I note from site inspection that the flat roof of the extension comes right up to this window and appears to have subsumed the window cill. No further clarity is provided in the application documentation in relation to the works carried out to this cill.

- The CO report notes that while a two-storey extension to the rear of protected structures could be accepted in principle, it would be required that the design of any such feature should be of the highest quality, must not be overly dominant and must respect architectural character. In this regard I note the details that have been submitted and the nature of the extension for which retention has been sought and on this basis, I am of the opinion that while alterations and additional design features could render the development appropriate at this location, the documentation currently on file does not justify the works that have been carried out nor is sufficient detail provided to justify a grant of permission in this instance.

7.6.14. Further to the above I note that the current application documentation does not include or provide any significant detail in relation to the structural/engineering interaction between the new return and the main dwelling on the subject site nor the extant neighbouring return which was twinned with the original. I also note that pre-planning discussions were held with the planning authority in advance of any works having been carried out on site, and that the planning authority had advised the applicants agents regarding the nature of the protected structure and the need for any works to respect the character and nature of the building.

7.6.15. In consideration of the above in relation to architectural heritage and on review of the documentation on file I conclude that retention of the existing rear return is not appropriate in its current condition. In this regard I note that the scale and nature of the existing return may be justifiable in the event of more comprehensive details are provided relating to external finishes and appropriate design features to assimilate the structure more appropriately with the rear elevation of the on-site protected structure as well as those neighbouring.

7.6.16. Having regard to the retention of the demolition of the previously existing rear return, in my opinion the application documentation does not sufficiently justify its removal. There is a lack of imagery provided in relation to this feature and a lack of detail

provided in relation to the nature any historical fabric of note within, apart from a reference to there being little historic fabric lost within the rear return. I do, however, accept that the rear return was in poor condition and it is unlikely that there was significant loss of historic fabric from the demolition of the return.

8.0 Recommendation

8.1. I recommend that permission be refused for the subject development for the reason set out below.

9.0 Reason

On the basis of the application documentation submitted in connection with the planning application and appeal it is considered that neither sufficient detail nor evidence has been provided to justify a grant of planning permission for the retention of the demolition the pre-existing rear return and the retention of the newly constructed rear return of the Protected Structure (No. 49 Cabra Road). The application documentation by reason of:

- The narrow focus of the application description,
- The inaccuracy in drawings,
- Poor quality of existing and lack of detail on future proposed external finishes,
- Lack of detail in relation to physical interactions with neighbouring and on-site protected structures,
- Limited scope in conservation reporting in relation to the pre-existing rear-return,
- The stated need for additional ancillary works to the extant rear return for which retention is sought which lie outside the scope of the current retention application, and
- The uncertainty in the use of the rear return for which retention is sought,

Has failed to justify the retention of the subject works and demonstrate how the development can be provided on site in a manner which assimilates effectively within the built environment of this terrace of protected structures while ensuring the

protection of the residential amenity of future and existing residents. Accordingly, it is considered that the subject development as presented materially adversely affects the character of the protected structure and contravenes the provisions of policy CHC 2 (a), (b), (c) and (d) of the Dublin City County Development Plan 2016-2022. Accordingly to grant retention permission for the development as set out in the application documentation would set an inappropriate precedent and be contrary to the proper planning and sustainable development of the area.

Jimmy Green
Senior Planning Inspector

26th May 2022